

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7657

Petition of William Matteson for approval under )  
30 V.S.A. § 107 of the acquisition of a )  
controlling interest in Colonial Estates Water )  
Corporation )

Order entered: 9/10/2010

**ORDER APPROVING ACQUISITION OF COLONIAL ESTATES WATER  
CORPORATION**

**I. INTRODUCTION**

On June 4, 2010, counsel for William Matteson filed a letter ("Matteson Petition") with the Public Service Board ("Board") requesting the approval of the Board for the purchase by Mr. Matteson of shares in Colonial Estates Water Corporation, a Vermont corporation subject to the jurisdiction of the Board ("Water Company"). Mr. Matteson, who currently owns half the shares of the Water Company, proposes to purchase the remaining shares, which are owned by his former partner, Dean W. Davis, as part of the settlement of a lawsuit. On June 30, 2010, Mr. Matteson's counsel filed a copy of a Stipulation and Order issued by the Rutland County Superior Court on October 22, 2009 ("Stipulated Order"), and a copy of a Purchase and Sale Agreement, dated November 30, 2009, between Mr. Matteson and Mr. Davis ("Purchase and Sale Agreement").

By memorandum dated July 29, 2010, the Clerk of the Board requested that the Department of Public Service ("Department") advise the Board as to any recommendation it may have with respect to Mr. Matteson's petition and related matters. The Department filed a response to the Board's request on August 19, 2010 ("DPS Response"). The Department's response explained and clarified certain matters related to the petition and the Water Company and recommended that the petition be granted without a hearing. The Department also recommended that the Board's approval be conditioned on (i) Mr. Matteson filing a proposal for

completing an orderly transition from the current operator of the water system to Mr. Matteson, if Mr. Matteson intends to take-over operation of the water system from the current operator, and (ii) Mr. Matteson providing notice of the closing of the acquisition and of the order of dismissal in Rutland Superior Court.

No request for a hearing has been made by any party or by any other person, including any customer of the Water Company, nor has any person made any submission to the Board in opposition to the proposed acquisition.<sup>1</sup> After a review of the filings, the Board concludes that the filings of the parties provide a sufficient basis to grant the requested relief and that a hearing in this matter is not necessary.

## **II. FINDINGS OF FACT**

Based on the filings of Mr. Matteson and the Department, the Board finds:

1. The Board approved the issuance of a Certificate of Public Good ("CPG") to the Water Company pursuant to 30 V.S.A. § 102 on April 20, 1976, "with its sole purpose being to provide water service to lot owners of Colonial Estates, Rutland, Vermont." Docket 4088, Order of 4/20/76 at 3.
2. On October 8, 1985, the Board approved the acquisition of all the outstanding shares of stock of the Water Company by Mr. Matteson and Mr. Davis, with each to acquire a 50% interest. Docket 5033, Order of 10/8/85.
3. In the Order approving the acquisition of the Water Company, the Board found that Mr. Matteson "has considerable experience with water systems."<sup>2</sup> Docket 5033, Order of 10/8/85 at 3.
4. Mr. Matteson and Mr. Davis, who were partners in other business ventures in addition to the Water Company, "were unable to resolve their disputes following the collapse of their working relationship." Matteson Petition at 1.

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1. Based on Findings 11 and 12 below, it appears that customers of the Water Company favor Mr. Matteson's increased involvement with the Water Company.

2. The Board also found that "Mr. Matteson lives in Colonial Estates, next door to the pump house, and will continually be available if an emergency arises." Docket 5033, Order of 10/8/85 at 3. It is not clear from the filings of the parties whether Mr. Matteson still lives in Colonial Estates, next door to the pump house.

5. The Water Company was eventually placed in receivership by the Rutland Superior Court in connection with a lawsuit filed by Mr. Davis against Mr. Matteson, the Water Company and two other corporations. Matteson Petition at 1; DPS Response at 1; Stipulated Order at 1.

6. The court-appointed receiver of the Water Company contracted with Simon Operation Services, Inc. ("SOS") to operate the water system, and SOS has operated the system for the past few years. DPS Response at 2.

7. Mr. Matteson and Mr. Davis have reached an agreement to resolve the lawsuit as set forth in the Stipulated Order. Matteson Petition at 2; DPS Response at 1; Stipulated Order at 1-4.

8. The Purchase and Sale Agreement provides for the purchase by Mr. Matteson of the fifty percent interest in the Water Company currently owned by Mr. Davis. Following such purchase and sale, Mr. Matteson will be the sole owner of the Water Company. Purchase and Sale Agreement at 1; Stipulated Order at 2; DPS Response at 1.

9. The Stipulated Order sets forth five conditions to the sale of Mr. Davis' stock in the Water Company to Mr. Matteson. Stipulated Order at 2; DPS Response at 1.

10. Counsel for Mr. Matteson has advised the Department that all the conditions for the sale have been met except for approval by the Board. DPS Response at 1.

11. A public meeting of customers of the Water Company was held in Rutland on July 23, 2008, at which the management and future of the water system were discussed. DPS Response at 1; Matteson Petition at 1.

12. The customers of the Water Company who attended the public meeting did not voice any significant dissatisfaction with Mr. Matteson's management of the water system and favored operation of the water system by Mr. Matteson over the possible formation of a fire district or other customer-owned entity. DPS Response at 1-2; Matteson Petition at 1.

### **III. DISCUSSION AND CONCLUSIONS**

Following a multi-year litigation with his former partner, Mr. Matteson proposes to buy out his former partner and become the sole owner of the Water Company. It is apparently the intention of Mr. Matteson to resume his role as operator of the water system some time after the

acquisition is completed.<sup>3</sup> As the Department observes, the proposed acquisition will result in the return of management to an owner/operator "who apparently provided satisfactory service to the customers who depend on the system."<sup>4</sup>

Based on the filings of the parties and the above findings, it appears that the acquisition of sole ownership of the Water Company by Mr. Matteson, the related resolution of the disputes between Mr. Matteson and Mr. Davis affecting the Water Company, and the removal of the Water Company from receivership should be beneficial to customers of the Water Company and to the State of Vermont. Accordingly, the Board finds and concludes that the acquisition by Mr. Matteson of the interest of Mr. Davis in the Water Company will promote the public good and should be approved. The Board also concludes that the conditions proposed by the Department are appropriate to ensure an orderly transition in the operation of the water system used by the Water Company in its business.

#### **IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The purchase by William Matteson from Dean W. Davis of shares of Colonial Estates Water Corporation will promote the public good and is approved pursuant to 30 V.S.A. § 107.
2. Mr. Matteson shall notify the Department of Public Service ("Department") and the Public Service Board ("Board") within 15 days (i) after the stock transfer is effected, and (ii) after an order of dismissal is obtained from the Rutland Superior Court in the civil action involving Mr. Davis, Mr. Matteson and Colonial Estates Water Corporation (Rutland Superior Court Docket No. 443-7-03Rdev).
3. If Mr. Matteson intends to replace the current operator of the water system used in the business of Colonial Estates Water Corporation, Mr. Matteson shall file with the Department of

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3. DPS Response at 2; *see*, also, Matteson Petition at 2 and Stipulated Order at 3. It is the Department's understanding that the operation contract with SOS entered into by the Water Company's receiver has a one-year term, subject to automatic renewals. It is not clear when the SOS contract will expire. DPS Response at 2.

4. *Id.* The Department does note, however, that it has had issues with Mr. Matteson in the past, "related primarily to tardy submissions of annual reports and miscellaneous other matters that do not warrant further investigation or action at this time." According to the Department, "Mr. Matteson has assured the Department that he will retain professional assistance as needed to ensure that future reports are timely filed and accurate." *Id.*

Public Service and the Public Service Board ("Board"), a proposal for completing an orderly transition to the new operator, which proposal shall provide for adequate advance notice to the customers of the Water Company. Mr. Matteson shall not replace the current operator of the water system until either (a) the Public Service Board approves such proposal, or (b) sixty days has elapsed since the filing of such proposal without an order of the Public Service Board in regard to such proposal having been entered.

Dated at Montpelier, Vermont, this 10<sup>th</sup> day of September, 2010.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: September 10, 2010

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*